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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

KRISTINA MARTINEZ, in her
Capacity As the Personal
Representative of the Wrongful
Death Estate of Barbara
Granger, Individually

Plaintiffs

v

DART TRANS, INC.,
GILBERT TAN d/b/a GMT
TRUCKING, SUNRISE TIRE
AND LUBE SERVICE, INC.,
HAR-SUKH CORP., INC.,
SAM SANDHU, JASVIR
SINGH, RAJINDER SINGH
BASSI, SUKHDEV SINGH
DHALIWAL, TERI-OAT, LLC,
JOHN DOE 1, JOHN DOE 2,
GOODWILL TRUCKING,
LLC., and GURPREET SUCH,

Defendants

No. CIV 19-00994 JB/JHR

**SUKHDEV SINGH'S REPLY TO
PLAINTIFFS' RESPONSE IN OPPOSITION
TO THE "NOTICE OF MOTION AND
MOTION TO QUASH JUDGMENT AND TO
QUASH THE ARREST WARRANT
AGAINST SUKHDEV SINGH,
DECLARATION OF DEFENDANT, AND HIS
ATTORNEY IN SUPPORT OF THE
MOTION TO QUASH, AND THE
MEMORANDUM OF POINTS AND
AUTHORITIES THEREOF AND REQUEST
TOSTAY THE ARREST WARRANT
PENDING HEARING OF THIS MOTION"**

Date:

Time:

Dept.:

Hon. District Judge James O. Browning

I, Sukhdev Singh file this Reply to Plaintiff's Response in Opposition to my motion to quash judgment and the arrest warrant:

Plaintiff's attorneys are misleading this Court:

i I am actually lost and confused here because Plaintiff's attorneys are outright misleading this Court in their opposition. This is violation of their duty of candor to the Court and being truthful to the Court under all circumstances. I am not citing any case here, because there were so many cases and I did not know which to cite. Here is the prime example:

A From Paragraph 25 onwards, they start to mislead this Court. More specifically, they openly mislead this Court in Para 25c. This what is written in the complaint:

"16 Sunrise Tire and Lube Services, Inc. ("Sunrise Tire") is a California Corporation, incorporated in March of 2017. Sunrise Tire was the grantee in a recorded "Notice of bulk Transfer" from Har-Sukh Corp., Inc. in June of 2017 that appears related to American Tire and Truck Repair business. On information and belief, Sunrise Tire's principle place of business is San Joaquin County, California.

17 Sukhdev Singh Dhaliwal is Sunrise Tire's Chief Executive officer, and registered agent. On information and belief, he exercised control over, was an agent, or was a managing agent of the business operating at American Tire and Truck Repair business during the times relevant to this complaint."

And this is what they write here in 25c:

c. He read that Plaintiffs intended to sue the Sukhdev Singh who was "Sunrise Tire's Chief Executive officer," because Sunrise Tire "was the grantee in a recorded 'Notice of bulk Transfer' that appears related to the American Tire and Truck Repair business," *id.* ¶¶ 16-17, at 4.

This Court can compare the two paragraphs of the complaint and see for itself that Sukhdev Singh is never mentioned in these two paragraphs. The person mentioned is Sukhdev Singh Dhaliwal. Hence, they are misleading this Court.

This is also contrary to their position taken in Motion for Correction filed on or about May 14, 2021 (Document 112, Para 1, page 2).

ii I would have given them a benefit of the doubt if the only issue was the one that is listed above. However, following paragraphs are additional examples of their effort to mislead this Court. They are deliberately mischaracterizing my declaration under oath to suit their narrative and thereby misleading this Court time and again:

1 25d. Singh admits that he and his company, Sunrise Tire, did the actual work on the "Dart Tractor
2 Trailer" that was complained of throughout the Complaint that he read when it was served on him:
3 "[T]his is the only time we dealt with them [the Dart Tractor Trailer at issue in the Complaint],"
4 id. ¶ (B), at 5 (emphasis added). Singh admits that, "[t]oday I know that we did replace the lug nuts
5 for the Dart Tractor Trailer," id. ¶ 6, at 6.

6 To begin with, here they are cherry picking what suits them. This is not how the system is
7 suppose to work. It is not listed anywhere in the complaint that it was our job/lug nuts that were the
8 cause of this accident. We did not cause this accident either directly or indirectly. The bad job
9 done on the axel is the cause of this accident, and this is what is mentioned in the complaint, and we
10 don't do axel job. This is done by specialists. From the complaint I could not figure out that Dart
11 Trucking is associated we me in any shape or form. The details of this paragraph do not suit their
12 narrative, and hence they are giving their own narrative and this continues in the following
13 paragraphs as well.

14 25e. When Singh knew that Plaintiffs were suing the owner of Sunrise Tire, which he was, for work
15 done on the Dart Tractor Trailer, which he admits he knew Sunrise Tire had done, rather than
16 answer the Complaint, reach out to the Plaintiffs or their attorneys, he decided not to answer
17 because he (wrongly) thought that, "in New Mexico," he could not be sued for negligence for the
18 work Sunrise Tire did on the Dart Tractor Trailer at issue in the Complaint, id. ¶ (D), at 5.

19 No this assertion is not true either. My first ground for not filing an answer is because my
20 name is not listed in the caption of the complaint, in the four corners of the complaint, and in the
21 summons.

22 Today I know we changed some of the lug nuts (and not all of them, Court needs to know
23 this because Plaintiff has not been able to establish that the tires that came off were the same tires
24 on which we fixed the lug nuts and further, the root cause of the problem was poor repair work done
25 on the axle and not the lug nuts) on Dart Tractor Trailer, but back then I did not know. Our job is
26 not the cause of this accident. Poor repair job done on the axle is the cause of this accident. This is
27 my position. In other words, back when this alleged complaint was served on me, I had no reason
28 to look for whether we worked on Dart Tractor Trailer or not, since in their own complaint they do
29 not list that lug nuts are the cause of this accident.

1 Then they list that Plaintiffs were suing owner of Sunrise Tire. Sunrise Tire is a corporation,
2 and its owner means its shareholder. In this case, here is another legal issue. Under New Mexico
3 laws, owners of a corporation cannot be sued very much like the officers of the corporation.

4 *f. Singh admits that "Sukhdev Singh is a very common name in Punjab State of India," and that,*
5 *even in San Joaquin County, he "personally know[s] many Sukhdev Singhs in and around Stockton*
6 *area by itself," id. ¶ 7, at 6.*

7 *g. Indeed, Singh admits that he understood and understands that the name named in the Complaint*
8 *that he admitted was served on him – Sukhdev Singh Dhaliwal – could have been him: "[E]very*
9 *Sukhdev Singh Dhaliwal can be Sukhdev Singh," id. ¶ 7(a), at 6.*

10 I am not too sure what they are trying to prove here but again they are giving partial
11 information the Court and they are cherry picking. They are only listing what suits them. This is
12 violation of their duty of candor to the Court and being truthful to the Court under all circumstances.
13 I had no reason to play with the system. More details on this particular issue would be discussed
14 later.

15 *25h. Singh also admits that, at the time he read the Complaint when it was properly served on him,*
16 *he knew that there were issues with identification of the proper Defendants, but, rather than ask any*
17 *questions of Plaintiffs or their counsel about perfected service on him – the correct Defendant – he*
18 *decided to do nothing: "I do remember hearing from others that summons and complaint had been*
19 *served on others at the wrong addresses, or to the wrong people in this case, since so many people*
20 *were sued. This only confirmed for me that it must have been a mistake," id. ¶ 8, at 7.*

21 Again it is mischaracterization of my position. I have and had no confusion in my mind. I
22 am not mentioned in the four corners of the complaint, I am not mentioned in the caption, and I am
23 not mentioned in the summons. They never address this issue in their opposition. Since I had no
24 confusion in my mind, the question of reaching out to them did not even cross my mind.

25 In any case, they have not given any authority for their position. Why was I under any kind
26 of legal obligation to correct their mistake and check with them? They are supposed to sue the
27 correct party, and serve the correct party. Law specifically requires that summons have to be
directed towards the defendant. Hence, it is their legal obligation to name the correct party in the
lawsuit and the summons, and not my legal obligation to correct their mistake. This is illegal
shifting the legal burden here.

1 Just to clarify one more issue here. The fact that I heard about summons and complaint had
2 been served on others at the wrong addresses, or to the wrong people, was around the time these
3 papers were dropped on us. I am not denying that these papers were not dropped at my address.
4 They were. But they were not directed towards me and hence I was not served and this is one of the
5 issues in this case. What I heard was around the same time these papers were dropped at my
6 address, and I was doing my due diligence to make sure whether I am being sued or not. Sole
7 reason this is mentioned is because this did play a part in my thought process and was an additional
8 fact to prove to me that I was not being sued. Therefore I had no reason to reach out to Plaintiff's
9 attorneys.

10 25i. Singh admits that, although according to him he was sure and confident that Plaintiffs
11 purportedly intended to sue someone else, he was monitoring all of the pleadings and proceedings
12 against him and Sunrise Tire, saw that the Motion to Correct was filed, when it was filed, but he
13 decided to do nothing about it (even though it was a motion to correct the name of Sukhdev Singh
14 Dhaliwal to a/k/as which included his exact name, for someone he knew did work on the Dart
15 Tractor Trailer at issue in his county): "Motion for Name Correction was the first indication to
16 me that maybe I was being sued, but . . . there was nothing I could do, even if I wanted to," *id.* ¶
17 10, at 7.

18 Again it is mischaracterization of my position. I reviewed the summons and the complaint
19 and reached the conclusion that I am not being sued. I was told by attorneys in New Mexico that I
20 cannot be sued as an officer of the corporation, and hence it was the end of my involvement in this
21 case. Name correction was first indication to me that I was being sued. This does not mean I was
22 closely monitoring all the pleadings and proceedings. Actually, I had no reason to monitor the legal
23 proceedings. And no, just because this motion listed aka Sukhdev Singh, this does not mean it is
24 listing me.

25 During the summons and complaint reviewing I did not know that we had done work on
26 Dart trucking. Further, the complaint does not show that our job is the cause of this accident.
27 Hence, there was no indication for me that I am being sued.

28 Lastly, at that point in time default had being pending for over 15 months. They have given
29 no authority that I could participate in this motion based upon this fact alone.

30 2. **I had no reason to play with the system:**

1 i **My Defenses:**

2 In my moving papers I list a host of defenses available to me. I listed about 5 or 6 additional
3 defenses in Paragraph 11 of my motion. Each defense by itself was a complete defense for me.
4 Plaintiff's in their response do not address my defenses in any shape or form. Hence, it is admission
5 by them that my defenses were complete. This by itself also shows that I had no reason to play with
the system.

6 3 **Changing the narrative:**

7 Plaintiff are changing narrative here. I filed motion for quash on legal grounds. Either I was
8 sued or not sued. My position is that I was never sued because I was not listed in the complaint, in
9 the caption of the complaint and in the summons. They have not shown anywhere that I was in fact
10 listed in the caption of the complaint, in the four corners of the complaint, and in the summons.
11 Hence, they are trying to change the narrative. This is motion to quash and not a motion for
reconsideration.

12 The above examples of their misleading the Court are other examples of Plaintiff's attorneys
trying to change the narrative.

13 4 **Paralegal's Email:**

14 If my moving papers and the above discussion is true then the only thing that allegedly ties
15 me to this lawsuit is the email of the paralegal.

16 i **Email is inadmissible as evidence:**

17 a I could not find a single authority based upon which this email could be admissible. There
18 was no foundation laid for it to be admissible. For laying the foundation you have to have the writer
19 of the email testify. Paralegal has never been asked to testify. Court can take judicial notice of this
20 fact. Again there were so many authorities discussing the foundation issue and I did not know
which to cite.

21 b Based upon my research, this email could have been used for one purpose and one purpose
22 only. To impeach me. I am not 100% sure of this either but this is to the best of my understanding.
23 However, this Court can take judicial notice of the fact that up to the time this email is offered as
24 evidence, I have never participated in the case. Hence, I had made no statements to Plaintiff, their
25 attorneys, or to this Court, based upon which this email could have been used to impeach my
credibility.

26 c This email is used against me, when I have no control over what a paralegal writes to
27 another attorney.

d I don't know the legalese. Hence, even if I had reviewed the email, it still would not have made full sense to me. This is the first time in my life that I was being sued.

e This email is interpreted and used against me. Why it is not being used in my favor? This is the time I am doing my homework to see if I am being sued or not. In this email, I am asking for additional time to complete my due diligence because at that point in time I have not discussed this matter with any attorney in New Mexico.

ii This email is written on or about October 11, 2019:

a Court can take judicial notice of the fact that this email was written well before the December 6, 2019 default is filed against Sukhdev Singh Dhaliwal.

b Between the date this email is written and the motion for correction, dated May 14, 2021, is filed, there is gap of about 19 months. During this entire time, Plaintiff's attorneys took no steps to bring me into this case. Why?

c Court can take judicial notice of one more fact. Plaintiff's attorneys have never explained how I could have participated in this motion, and therefore filed opposition, when the default had been filed on or about December 6, 2019, and most importantly, this motion was a name correction of Mr. Sukhdev Singh Dhaliwal and it was filed on or about May 14, 2021. In other words, how could I participate in a case after the default had been pending for over 1 year, and it related to Sukhdev Singh Dhaliwal as opposed to me, Sukhdev Singh?

iii Court can make another comparison here:

a Under the title of Facts, see paragraphs 1 through 6 of Plaintiff's opposition for what they did in first months after filing the complaint. And

b Then see paragraphs 7 through 24 of their opposition to see what they did thereafter. Details are omitted herein because Court can take judicial notice of their filings and the summary given by them in their own opposition.

In other words, from May 14, 2021 onwards they suddenly become very efficient, and the case is being prosecuted how it should be. But before this date, for at least 16 to 19 months they do nothing. This raises the question, why?

And I am supposed to me monitoring the Case. How?

5 **Bad Faith:**

1 i Plaintiff and their attorneys have played with the system but they are accusing me of doing it
2 when the above discussion shows that I had no reason to play with the system and the following
3 discussion will also show the same:

4 a As discussed above, they did not do anything for about 19 months. I am not listed in the
5 caption of the complaint, I am not listed in the four corners of the complaint, I am not listed on the
6 summons, and I cannot be sued as an officer of the corporation. What were they doing during these
19 months is the question?

7 b From the October 11, 2019 email of the paralegal they knew or should have known that
8 there was problem with the name. Why did it take them 19 months to file their motion for
9 correction? Court can take judicial notice of the fact that no reason was given to the Court for this
delay in their moving papers. (Document 112.)

10 c Why did they not amend the complaint and the summons during these 19 months using the
11 akas?

12 d Why did they not re-serve the summons and complaint on me during these 19 months since
13 they knew it was me who they were after all along using these akas? (Which I still don't know.)

14 ii Following is another example of them playing with the system:

15 a Page 4, para 8 of their response they are writing:

16 On January 6, 2021, Rattan Dhaliwal as counsel for Sunrise filed the Notice of Motion and
17 Motion to Set Aside the Default of Defendant Sunrise Tire and Lube Service, Inc., Memorandum of
18 Points and Authorities and Declaration of Defendant, and Its Attorney in Support Thereof [Doc.
19 98]. The Court denied this motion on July 5, 2021, based in part on its conclusion that "Sunrise
20 Tire," the company for which Singh was CEO until just weeks ago, "has chosen largely to be
unresponsive in this litigation." [Doc. 130 at 2].

21 This is an admission. They were going after a CEO of the company, for which they have no
22 legal grounds to do the same. The best ground they can give is the following, and which is not a
legal ground at all to go after a CEO of a company:

23 Page 1, para 1: "From the outset, Defendant Sukhdev Singh, a/k/a Sukhdev Singh Dhaliwal,
24 a/k/a Sukhdev Dhaliwal Singh ("Singh") has challenged the Court's ability to hold him accountable
25 for sitting idle while a wrongful death case in which he is a party – the most serious type of civil
26 case that courts hear –....."

27 6 Court overstepped its discretionary power:

1 a Court did not take into cognizance that there was about 19 months gap between the email
2 and the motion for correction filed. Plaintiff's attorneys fail to explain this delay in any shape or
3 form. In fact, they never touch this issue.

4 b Court did not take into cognizance of the fact that there was lack of foundation before the
5 email can be admitted into evidence.

6 c Court did not take into cognizance that the email is not offered to impeach my credibility.

7 d Court did not take into cognizance that other than this email, there was nothing in front of
8 this Court to grant this motion.

9 e Court did not take into cognizance that I did not cause any confusion in the minds of
10 Plaintiff and their attorneys. Plaintiff do mention this fact in the name correction motion filed on or
11 about May 14, 2021. Document 112, Para 1, page 2 of the motion. Last 3 lines are important to be
12 noted of this paragraph.

13 f Since the name correction motion was attached to Sukhdev Singh Dhaliwal and default had
14 been pending against him for over one year, and the Motion for Name Correction was the first
15 indication to me that maybe I was being sued. At that point in time, what right did I have to
16 participate or file opposition to this motion? On July 6, 2021, the Court filed its Memorandum
17 Opinion and Order granting the Motion to Correct ("MOO"). See Doc. 131. In this MOO, court
18 does not touch on this issue.

19 g As per Plaintiff's Response in opposition: On July 6, 2021, the Court filed its Memorandum
20 Opinion and Order granting the Motion to Correct ("MOO"). See Doc. 131. The Court granted the
21 Motion to Correct, because the Court found that the parties, including Sunrise Tire and Singh, as
22 well as Plaintiffs, knew that the Defendant who was named in the caption as "Sukhdev Singh
23 Dhaliwal," was Singh all along, even if they had mistaken one of his a/k/as: [T]hroughout the
24 litigation, the parties and the Court have known whom this Defendant is -- Defendant Sunrise Tire
25 and Lube Service, Inc.'s owner and registered agent -- and changing the name in the Default
26 Judgment will reflect more clearly the Court's purpose in entering the Default Judgment, by
27 preventing this Defendant from avoiding the Default Judgment's consequences by attempting to go
28 by different versions of the same name.

29 Here the Court overstepped its discretion on another ground. Owner means shareholder, and
30 again Plaintiff cannot go after a shareholder of the company. In any case, we did not know that I
31 was being sued, and I was never served. This is the issue to begin with. Corporation CEO's and

1 shareholders cannot be sued for negligence is another legal issue. Each one alone is sufficient to
2 quash the judgment against me.

3 h Arrest Warrant:

4 Here the Court over stepped its discretion once more. For my kind of transgression I have
5 always found bench warrant being issued and never an arrest warrant. Did I miss something here?

6 A I really need this Court to explain to me how all of this not prejudicial to me?

7 B I need to this Court to explain to me how this is not a miscarriage of justice?

8 If the Court is going to deny my motion to quash the judgment and quash the arrest warrant,
9 in this case I would respectfully request this Court to explain this to me in writing.

10 7 Ghost written:

11 I did not draft either of these documents. I took help of few people and one of them is Mr.
12 Rattan Dhaliwal.

13 8. Producing Papers or discovery for the Sunrise Tire:

14 I have never refused to answer the discovery for Sunrise Tire. It was always my
15 understanding that I did not have a choice. I had to comply with all discovery requests in full.
16 Which meant that I had to give them my personal information as well as that of the corporation.
17 This was my understanding, and I am willing to apologize for my this misunderstanding to the
18 Court and Plaintiff.

19 Right now I have been arrested. Once I am out of jail, then give me 30 days thereafter and I
20 will comply.

21 9 None of my issues are addressed:

22 Court can take judicial notice of one more fact. Literally none of the issues I raised in my
23 moving papers were addressed by the Plaintiff or its attorneys.

24 If the Court is going to deny my motion to quash, then I would respectfully request this
25 Court to address all of my concerns in writing whether they are listed here or in my original motion.

26 Here is my reason for this request: I have never broken any laws ever in my life. I don't
27 see what wrong I did here in this case. In other words, how could have I done things differently
than what I did? Mr. Baker has never addressed any of my concerns that Mr. Rattan Dhaliwal

1 brought to his attention, and he is continuing to do the same in his response. He is side stepping the
2 questions, the issues, and giving his own narrative to them. Yes, he can spin them that's fine, but
3 they need to make sense and they still do not make sense to me. Maybe a written judgment from
4 this Court will help me see what is clear as day to Mr. Baker?

5 CONCLUSION

6
7 This motion should be granted because this Court never had jurisdiction in this matter since
8 I am not named in the caption of the lawsuit, and in the lawsuit itself. Further, this Court never got
9 the jurisdiction in this matter because the summons were never directed towards me. I have never
10 appeared in this Court, hence this Court never had personal jurisdiction on me in this matter. I was
11 prejudiced when they filed motion for correction more than 18 months after the entry of default.
12 Court over stepped it discretion because this essentially admitted new defendant into the case in
13 violation of being named in the lawsuit and served as such. There are no allegations against me that
14 would allow the corporate veil to be pierced. Therefore the judgment is void, and any orders that
15 follow the void judgment are also void.

16 Dated: September 22, 2022

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19 Sukhdev Singh
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PROOF OF SERVICE

I, Kubra Hussain, declare that I am a resident of the State of California, am over the age of eighteen years, and not a party to the within action. I am employed in the County of Santa Clara, State of California. My address is 2005 De La Cruz Blvd., Suite 185, Santa Clara, CA 95050.

On the date set forth below, I caused to be served true and correct copies of:

Sukhdev Singh's Reply to Plaintiffs' Response in Opposition to the "Notice of Motion and Motion to Quash Judgment.."

(X) (BY U.S. MAIL) - by placing such copy in a sealed envelope postage thereon fully prepaid, in the United States Postal Service for collection and mailing this day in accordance with ordinary business practices.

() (HAND DELIVERY - CCP §§1011, 2015.5) by hand delivery of such copies on the parties indicated.

() (FACSIMILE - CCP §§ 1013, 2015.5) by consigning copies to a facsimile operator for transmittal on this date to the parties indicated.

() (EMAIL -- CCP §§ 1010.6, 1013, 2015.5) by electronic transmission of such copies on this date to the parties indicated.

() (OVERNIGHT COURIER -- CCP §§ 1013(c), 2015.5) by consigning such copies on this date to a Federal Express location for delivery to the parties indicated.

I caused the above documents to be served on the following persons:

Mark T Baker
Peifer, Hanson, Mullins & Baker, PA

P.O Box 25245
Albuquerque, NM 87125

20 First Plaza Ctr. NW, Suite 725
Albuquerque, NM 87102

I am readily familiar with the practices for processing of documents for service according to the instructions indicated above. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Santa Clara, California on September 22, 2022.


Kubra Hussain

PROOF OF SERVICE